IN THE HIGH COURT OF DELHI AT NEW DELHI

Bail Application No.971/2007

Shri Raju .....Petitioner
! through: Mr.Vikas Manchanda, Advocate

VERSUS

$ State .....Respondent
^ through: Mr.Anil Soni, Advocate.

% **D**ATE OF DECISION: 08-08-2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not?

3. Whether judgment should be reported in Digest?

: PRADEEP NANDRAJOG, J.

FIR No.53/2007 dated 28.2.2007
P.S. Lodhi Colony
U/s. 408 IPC

1. Record of investigation has been perused. After 1.3.2007 petitioner has not even been summoned by the IO to join in the investigation.

2. Record of investigation shows that after 1.3.2007 no investigation has been carried out.

3. FIR was registered on 28.2.2007 on statement of the complainant to the effect that petitioner was employed as his driver. That on 10.2.2007 the complainant sent the petitioner to encash a cheque from Bank of Saurashtra, Lodhi Road in sum of Rs.2 lacs. That the petitioner never reported back. That on 10.2.2007 petitioner telephonically informed the complainant that due to rain he could not visit the bank to encash the cheque. That the complainant told the petitioner to encash the cheque on Monday. But, petitioner vanished along with the money.

4. In defence, petitioner states that evidenced by the fact that a cheque dated 16.2.2007 was handed over to him for encashment, theory of petitioner not reporting back to the employer after 10.2.2007 fails.

5. In the record of investigation I find no investigation whatsoever carried out pertaining to the cheque dated 16.2.2007, photocopy whereof has been filed by the petitioner as Annexure-A.

6. Under the circumstances, I hardly find any material to prima facie nail the petitioner.

7. Be that as it may, the key to un-open the lock would center around the cheque dated 16.2.2007 which petitioner

states was handed over to him for encashment. As per the petitioner he could not receive money under the said cheque as it had deficiencies.

8. From the photocopy of the cheque, deficiency which I note is that the cheque value written in words i.e. 'Two Lacs Only' has not been written at the correct place of the cheque. It has been written at the place available where the name of the payee has to be written. Whether the petitioner is stating the truth or otherwise can be verified with reference to the tokens issued by the concerned clerk at the bank to whom cheque was handed over for payment.

9. Evidence which has to be gathered would be documentary evidence. I see no reason why petitioner should be subjected to custodial interrogation.

10. The petition accordingly stands disposed of directing that in the event of the petitioner being arrested by the IO, the petitioner would be released on bail by the IO on the petitioner furnishing a personal bond in the sum of Rs.10,000/- with one surety in the like amount to the satisfaction of the IO in the above captioned FIR.

11. Needless to state, the petitioner would join the investigation as and when required.

12. Copy of this order be supplied dasti to learned counsel for the petitioner.

August 08, 2007 **PRADEEP NANDRAJOG, J.**
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